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IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

IN RE META PIXEL TAX FILING CASES

Case No. 5:22-cv-07557-PCP (VKD)

This Document Relates To:
 All Actions

**DEFENDANT META PLATFORMS,
 INC.'S REPLY IN SUPPORT OF
 MOTION TO EXCLUDE THE
 TESTIMONY OF COLIN WEIR**

Date: February 26, 2026
 Time: 10:00 a.m.
 Courtroom 8, 4th Floor

Date Action Filed: December 1, 2022
 Honorable P. Casey Pitts

ARGUMENT

Plaintiffs’ opposition does not address the core issue presented by Meta’s motion to exclude Mr. Colin Weir’s testimony: his six-page report will not help this Court resolve plaintiffs’ motion for class certification. Because Mr. Weir’s testimony does not advance that inquiry, it should be excluded.

Plaintiffs spend most of their opposition arguing that Mr. Weir’s testimony would ultimately be useful to help a *jury* count data entries, relying on cases about analysis of voluminous records at the *trial* stage. *See* Opp. 3–4. But while Mr. Weir’s testimony does not satisfy the standards to get to a jury either, that is not the relevant question at the class-certification stage. Expert testimony offered at this stage should be excluded unless the proponent shows “by a preponderance of the evidence” that “the expert evidence is ‘useful in evaluating whether class certification requirements have been met.’” *Cholakyan v. Mercedes-Benz, USA, LLC*, 281 F.R.D. 534, 546 (C.D. Cal. 2012) (first quote); *Young v. Cree*, 2021 WL 292549, at *4 (N.D. Cal. Jan. 28, 2021) (second quote); *see also In re Apple iPhone Antitrust Litig.*, 2025 WL 3124160, at *4 (N.D. Cal. Oct. 27, 2025) (similar). Plaintiffs have not made that showing.

Tellingly, plaintiffs never even cite Mr. Weir’s testimony in their class-certification reply. In their initial class-certification motion, they cited Mr. Weir’s testimony once, asserting that his report offers a “method of calculating visits” to the websites at issue in this case. Dkt. 214 at 15. Meta has already explained why Mr. Weir does no such thing, and why—even if he did—counting visits would not advance any classwide methodology for determining statutory damages. Mot. 3–4. Plaintiffs offer no substantive response. Instead, in the final paragraph of their opposition, they pass the buck: plaintiffs assert that “these challenges are appropriately directed at Bob Zeidman,” their purported expert “on technical issues.” Opp. 4. But plaintiffs bear the burden to show how *Mr. Weir’s* testimony would assist this Court in ruling on their class-certification motion. *Cholakyan*, 281 F.R.D. at 546. Similarly, plaintiffs assert that the gaps in Mr. Weir’s analysis go only to “weight,” not admissibility. Opp. 4. But once again, Mr. Weir’s testimony is inadmissible unless it advances the class-certification inquiry. *Young*, 2021 WL 292549, at *4. Plaintiffs offer no rationale for how it could.

CONCLUSION

The Court should exclude Mr. Weir’s opinions.

DATED: January 14, 2026

GIBSON, DUNN & CRUTCHER LLP

By: /s/ Lauren R. Goldman
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